



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

MAY 25 2017

Mr. Jeffrey Wilson
Owner
Hammerhead Contracting Corporation
2193 Timothy Drive
Westminster, MD 21157

RE: NOTICE OF NON-COMPLIANCE: TSCA-III-2017-0031

Dear Mr. Wilson:

The United States Environmental Protection Agency ("EPA") serves this Notice of Non-Compliance ("NON") to you for violations of Section 402 of the Toxic Substances Control Act ("TSCA") 15 U.S.C., Section 2682 and the Residential Property Renovation Rule which is codified at 40 C.F.R. Part 745, Subpart E, committed in connection with renovations of residential dwelling units located in and around Westminster, Maryland. According to the definitions provided at 40 C.F.R. § 745.83 and 40 C.F.R. § 745.103, which are listed in the "DEFINITIONS" section below, Hammerhead Contracting Corporation is a firm renovating residential dwelling units, located in and around Westminster, Maryland.

AUTHORITY

Under Section 402 of the Renovation, Repair, and Painting Rule, ("RRP Rule") whenever a firm enters into an agreement to renovate residential dwelling units or child-occupied facilities built prior to 1978, the firm is required to ensure that individuals performing renovations regulated in accordance with 40 C.F.R. § 745.82 are properly trained; renovators and firms performing these renovations are certified under 40 C.F.R. § 745.89; the information distribution requirements of 40 C.F.R. § 745.84 are met; the work practice standards in 40 C.F.R. § 745.85 are followed during these renovations; and the recordkeeping and reporting requirements of 40 C.F.R. § 745.86 are met. If a firm fails or refuses to comply with the RRP Rule, the firm has committed a prohibited act(s) under TSCA § 409, 15 U.S.C. § 2682 and is liable under TSCA § 16, 15 U.S.C. § 2615, for civil penalties. EPA has determined that you are the firm responsible for certain "renovations" as defined in 40 C.F.R. § 745.83, located at the addresses referenced herein, with respect to certain renovations of such housing.

DEFINITIONS

The following terms shall be defined as specified below. **Please refer to these definitions to properly understand their use and meaning in this NON.**

1. "Child-occupied facility" means a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, under 6 years of age, on at least two different days within any week, provided that each day's visit lasts at least three hours and the combined weekly visits last at least 6 hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include but are not limited to, day care centers, preschools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child occupied facility encompasses only those common areas that are routinely used by children under age 6, such as restrooms and cafeterias. Common areas that children under age 6 only pass through, such as hallways, stairways, and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age 6.
2. "Document" means the original or an identical and readable copy thereof, and all nonidentical copies (whether different from the original by reason of notations made on such copies or otherwise), of any writings or records of any type or description, however created, produced or reproduced, including but not limited to any agreements of sale, contracts, deeds, riders, other agreements, leases, certifications, papers, books, records, letters, photographs, correspondence, communications, telegrams, cables, telex messages, memoranda, notes, notations, work papers, transcripts, minutes, reports and recordings of telephone or other conversations, or of interviews, conferences, or other meetings, affidavits, statements, summaries, opinions, reports, studies, analyses, evaluations, jottings, agendas, bulletins, notices, announcements, advertisements, instructions, charts, manuals, blueprints, brochures, publications, schedules, price lists, client lists, journals, statistical records, desk calendars, appointment books, diaries, lists, tabulations, sound recordings, computer printouts, data processing program libraries, data processing input and output, microfilm, books of accounts, records and invoices reflecting business operations, all records kept by electronic, photographic or mechanical means, any notes or drafts related to the foregoing, and all things similar to any of the foregoing, however denominated.
3. "Firm" means a company, partnership, corporation, sole proprietorship, or individual doing business, association, or other business entity; a Federal, State, Tribal, or local government agency; or nonprofit organization.
4. "Lead-based paint" means paint or other surface coatings which contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.

5. "Lead-based paint free housing" means target housing that has been found to be free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.
6. "Renovation" means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as a part of an abatement as defined by this part (40 C.F.R. § 745.223). The term renovation includes, but is not limited to: The removal, modification, or repair of painted surfaces or painted components (e.g. modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of building components (e.g. walls, ceilings, plumbing, windows); weatherization projects (e.g. cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planning thresholds to install weather stripping), and interim controls that disturb painted surfaces. A renovation performed for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation under this subpart. The term renovation does not include minor repair and maintenance activities.
7. "Renovator" means an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized State or Tribal program.
8. "Owner" means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.
9. "Target Housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

INVESTIGATION

Hammerhead Contracting Corporation is the firm responsible for renovations of certain "target housing," located in and around Westminster, Maryland. On February 1, 2017, EPA conducted an inspection of your firm. During the inspection, four renovation contracts and associated documents were collected. The information collected was reviewed to determine your firm's compliance status with the regulatory requirements of the RRP Rule. Through this review, it was determined that, for all of these renovations, your firm failed to meet the information distribution requirements of 40 C.F.R. § 745.84(a)(1)(i) and failed to meet the necessary recordkeeping requirements of 40 C.F.R. § 745.86, pursuant to the RRP Rule.

The information distribution requirements require that the firm performing renovations at target housing must:

- make available to EPA a written acknowledgement that the adult occupant or owner has received the EPA pamphlet entitled, *"Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools."*

The recordkeeping requirements require that the firm performing renovations at target housing must:

- prepare and maintain records demonstrating that the firm performed all of the lead safe work practices described in 40 C.F.R. § 745.85(a), as well as the post-renovation cleaning described in 40 C.F.R. § 745.85(b).

PROPERTIES WHERE RENOVATIONS WERE PERFORMED:

- 27 Longwell Ave., Westminster, MD 21157
- 4946 Old Court Rd., Randallstown, MD 21133
- 743 Roland Ave., Bel Air, MD 21014
- 3884 Ponder Dr., Edgewater, MD 21037

Your firm served as the contractor on the renovations at the properties listed above. EPA's records indicate that these properties were constructed prior to 1978, thereby characterizing them as "Target Housing" under the RRP Rule. Regarding the above-referenced renovations, information collected by EPA during the February 1, 2017 inspection indicates the following:

1. Your firm did not obtain a written acknowledgement that the owner received the aforementioned EPA pamphlet, as described in 40 C.F.R. § 745.84(a)(1),
2. No records were included in the four contracts collected documenting that the firm performed all of the lead safe work practices described in 40 C.F.R. § 745.85(a), as well as the post-renovation cleaning described in 40 C.F.R. § 745.85(b). Therefore, you did not meet the recordkeeping requirements of the RRP Rule at 40 C.F.R. § 745.86.

VIOLATIONS

You are the firm responsible for renovations at target housing (pre-1978 housing) and therefore must comply with the RRP Rule. The RRP Rule became effective on April 22, 2010. Due to the renovations listed above not being performed in accordance with the RRP Rule, you have committed the above-cited violations of the RRP Rule regarding the renovations for the above listed properties.

Pursuant to TSCA Section 16, violations are subject to civil penalties of up to \$37,500 per day, per offense. **However, after consideration of the facts in this case and the information that you have provided, at this time, EPA had decided to issue you this NON in lieu of a penalty action.** A NON is a warning letter that EPA may issue to alert parties of actual or potential

NOTICE OF NON-COMPLIANCE

TSCA-III-2017-0031

violations, and to require corrective action. Although you are receiving an NON for these violations at this time, any further violation of the RRP Rule by you may result in the issuance of a Civil Administrative Complaint for the assessment of penalties. All future renovations involving target housing must be made in strict accordance with the RRP Rule.

Within 30 days of receipt of this NON, please submit a signed statement to Ms. Valarie Pelletier at the address below, indicating the actions you have taken to ensure future compliance with the requirements of the RRP Rule.

EPA is hereby notifying you that any renovations that you conduct involving target housing and child-occupied facilities must be made in strict accordance with the RRP Rule. Enclosed is an EPA Compliance Package. You may make photo copies of the pamphlet entitled, "*Renovation Right; Important Lead Hazard Information for Families, Child Care Providers and Schools*," for distribution to the owners and/or occupants of any future renovation project.

Questions and correspondence relating to this NON should be directed to Valarie Pelletier of my staff at:

Valarie Pelletier, Compliance Officer
U.S. EPA-Region III
Land and Chemicals Division (3LC41)
1650 Arch Street
Philadelphia, PA 19103-2029
Phone: 215-814-2251
Email: pelletier.valarie@epa.gov

Sincerely,

A handwritten signature in black ink, appearing to read "Stacie Pratt", followed by the initials "fns.p.".

Stacie Pratt, Chief
Toxics Programs Branch

Enclosures

cc: Michelle Armiger (MD Department of Environmental Quality)